REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed May 16, 2005. At the time of the Office Action, Claims 1-10 and 19-43 were pending in this Application. Claims 11-18 were previously cancelled by Applicants without prejudice or disclaimer. Claims 1-10 and 19-43 were rejected. Independent Claims 1 and 33 have been amended to further define various features of Applicants' invention. Applicants respectfully request reconsideration and favorable action in this case.

Claim Objection

The Examiner objected to Claim 32 due to informalities. Applicants have amended Claim 32 to overcome this objection.

Rejections under 35 U.S.C. §103

Claims 1-10 and 19-31 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,123,836 issued to Noriyuki Yoneda et al. ("Yoneda et al.") in view of U.S. Patent 5,568,121 issued to David M. Lamensdorf ("Lamensdorf"). Claims 32-43 were rejected under 35 U.S.C. §103(a) as being unpatentable over Yoneda et al. in view of Lamensdorf, and further in view of U.S. Patent 4,160,246 issued to Martin et al. ("Martin et al."). Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, do not render the claimed embodiment of the invention obvious.

Applicants respectfully traverse the rejection. In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three (3) basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or

suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Here, the rejection fails to establish a *prima facie* case of obviousness because (1) the prior art references, when combined, fail to teach or suggest all of the claim limitations of amended Claims 1-10 and 19-34, and (2) there is no suggestion or motivation, in either the references or in the knowledge generally available to one of ordinary skill in the art, to modify the Yoneda reference and/or to combine the teachings of the references. In fact, the references are directed to systems which are incompatible and thus, not properly combinable.

Claims 1 and 33, the only independent claims of the group from which Claims 2-10, 19-32, and 34-43 depend, claim a "detector in said plant to detect a condition or event mounted at a first plant location ... and at least one battery-powered radio frequency transmitter mounted at the first location in said plant in electrical communication with at least one detector, said transmitter having a transmittable identification code and transmitting signals relative to said identification code, the detector, and the battery." (emphasis added) Neither Yoneda nor Lamensdorf teach and/or suggest this claimed subject matter. As correctly acknowledged by the Examiner, Yoneda teaches absolutely nothing with regard to transmitters and thus, teaches nothing in regards to the content of transmission signals. (See page 3, lines 3-5 of the Office Action.) The Examiner asserts, "it would have been obvious to one skilled in the art, by the time the invention was made [1994], to [sic] a wireless system to communicate a detector signal to a central processing system because such concept is old in the art as taught in Lamensdorf whenever detection signals are wirelessly communicated to a central monitoring location." It is worth noting that Lamensdorf's application was filed in 1993, the present application was first filed in 1994, and Lamensdorf issued in 1996. Lamensdorf expressly teaches the following:

> A locator system 48 may be provided to enable the operator of main monitoring center 10 to rapidly and precisely determine the location of the remote portable attendants 12. Radio 16 can operate on a spread radio frequency (RF) spectrum, which provides a maximum data rate of about 122 Kpbs. A plurality of spread spectrum repeaters 50 (typically three) are provided at spaced locations, connected to the main monitoring system 10 and base radio through an interface 52. By applying the additive summation and difference in the time at which a portable

> attendant's radio signal to reach each repeater the location of the portable attendant can be precisely determined in a conventional manner.

(Lamensdorf, Col. 4, lines 33-47) (emphasis added).

Thus, Lamensdorf discloses a "locator system", separate from the remote portable attendants 12, to determine the location of each remote portable attendant 12. Specifically, Lamensdorf discloses a locator system 48 including a plurality of hard-wired repeaters (typically three) to receive a signal from a remote portable attendant and through conventional triangulation based on the time it takes a signal to reach each repeater determines the location of the remote portable attendant, *i.e.*, the mobile detector and transmitter. The repeaters are "connected to the main monitoring system 10 and base station radio 16 through an interface 52." (emphasis added) Thus, Lamensdorf's system suffers from the problem of determining the location of the remote portable attendants, which are by definition mobile. Consequently, Lamensdorf has to provide an additional transmission system, *i.e.*, a set of repeaters that are "hard-wired" to the main monitoring system via "interface 52" in order to locate the remote portable attendants. Therefore, a combination of Lamensdorf with the completely hard-wired system of Yoneda does not provide the battery-powered wireless system of Claim 1 having fixed battery powered transmitters and detectors. Indeed, even if Lamensdorf and Yoneda were properly combinable, which Applicants do not concede, the combination would yield a system which would require hard-wired transmitters/repeaters -- not the presently claimed subject matter. Hard-wired transmitters/repeaters are certainly not "battery-powered" as claimed.

More importantly, Yoneda and Lamensdorf work on two completely different principles which are not properly combinable. Yoneda, as admitted by the Examiner, teaches absolutely nothing in regards to transmitters and/or transmission signals, and relates only to systems comprising fixed "hard-wired" detectors/sensors (no need for transmitters) for detecting certain parameters of a closed system. On the other hand, and in contrast, Lamensdorf is directed to non-fixed portable/mobile units with detectors and transmitters for monitoring only the atmosphere of a plant location to help ensure the safety of personnel working in the plant. Lamensdorf is not directed to monitoring various process parameters, but instead is only directed to a system to detect a possible hazardous environment for a

worker walking into a particular zone of the plant. More importantly, Lamensdorf expressly teaches away from the use of fixed hard-wired detectors like those disclosed in Yoneda:

> While these systems [a variety of hard-wire systems -- see Col. 1, line 17] are effective in fixed locations, such as rooms in a building, they are not portable or adaptable to changing conditions involving persons moving from location to location.

(Col. 1, lines 38-41).

Thus, Yoneda teaches fixed hard-wired sensors for detecting, *e.g.*, pressure or temperature in a completely hard-wired system and Lamensdorf teaches completely mobile sensors for only detecting hazardous atmospheric conditions for a person moving throughout a plant wherein separate hard-wired transmitters/repeaters are utilized to determine the location of the portable/mobile atmospheric sensors. Consequently, Lamensdorf teaches that mobile sensors with transmitters should be utilized while Yoneda teaches fixed hard-wired sensors (with no transmitters) should be utilized. And Lamensdorf, as quoted above, criticized systems, like Yoneda's, that include fixed hard-wire sensors as not solving the problem to which Lamensdorf is directed. Thus, to modify Yoneda with Lamensdorf would completely change Yoneda's principle of operation -- from fixed non-battery powered sensors (with no transmitters) to non-fixed portable detectors with transmitters -- as stated previously it is not understood how Yoneda and Lamensdorf could be combined or what the combination would yield. Thus, it is respectfully resubmitted that there is no suggestion and/or motivation to combine the teachings of the two references. Therefore, Applicants respectfully submit that Lamensdorf and Yoneda are not properly combinable and request withdrawal of the rejection. Support for Applicants' request is found in MPEP Section 2143.02, page 2100-132, wherein the law is quoted as follows:

> If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).

In addition, the MPEP mandates:

> The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior

> art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

(MPEP § 2143.01, page 2100-131). Here, neither reference suggests the desirability of the combination. On the contrary, Lamensdorf teaches that fixed hard-wired sensors, like Yoneda's, cannot provide Lamensdorf's solution which requires portable/mobile wireless atmospheric sensors/transmitters.

And neither reference teaches a battery-powered transmitter/detector combination that is mounted at a plant location and wirelessly transmits signals to a central processing location. Yoneda teaches nothing with regards to transmitters, and thus, nothing in regards to battery-powered transmitters and detectors. Yoneda's sensors are mounted hard-wired sensors, not battery-powered, and Lamensdorf's atmospheric sensors, while battery-powered, are portable/mobile, *i.e.*, not mounted and require a separate hard-wired system to locate the mobile units. The following teachings of the MPEP are pertinent:

> To establish *prima facie* obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

(MPEP § 2143.03, page 2100-133). Here, neither reference teaches mounted detectors/transmitters in a battery-powered transmission system with fixed detectors. Therefore, all limitations are not taught by the cited references.

The Examiner in conclusionary fashion, declares "it would have been obvious to one skilled in the art...to a wireless system to communicate a detector signal to a central processing system because such concept is old in the art as taught in Lamensdorf." (Office Action, page 3) However, the above-conclusion is not sufficient to reject the present claims. Indeed, the MPEP states:

> A statement [by an Examiner] that modifications of the prior art to meet the claimed invention would have been "well within the ordinary skill of the art at the time the invention was made' "because the references relied upon teach that all aspects of the claimed invention were individually known in the art [which is not even the case here] is **not** sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references.

(MPEP § 2143.01, page 2100-131) (emphasis added).

Here, no such objective reason to combine exists. Yoneda's system is hard-wired and thus, there is no need for transmitters, much less a need for Lamensdorf's incompatible portable/mobile atmospheric sensors/transmitters. One of ordinary skill in the art is simply not taught by Lamensdorf to modify Yoneda's fixed hard-wired system with Lamensdorf's portable/mobile atmospheric sensors/transmitters. And the combination certainly does not teach the presently claimed subject matter which includes mounted battery-powered transmitters and detectors. Withdrawal of the rejection is respectfully requested.

CONCLUSION

Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the claims as amended. Applicants would welcome an interview with the Examiner to help put this application in condition for allowance.

Applicants believe there are no additional fees due, however, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2606.

Respectfully submitted,
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